

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DITECH FINANCIAL LLC)
F/K/A/ GREEN TREE SERVICING LLC)
and FEDERAL NATIONAL MORTGAGE)
ASSOCIATION,)

Plaintiffs,

vs.

TBR, LLC; STONEFIELD II)
HOMEOWNERS ASSOCIATION,)

Defendants.)

3:16-cv-00227-MMD-WGC

ORDER

Re: ECF No. 61

Before the court is the motion of Plaintiffs Ditech Financial LLC (“Ditech”) and Federal National Mortgage Association (“Fannie Mae”) to stay discovery (ECF No. 61) until the court resolves Plaintiffs’ pending motion for summary judgment (ECF No. 60). No response to Plaintiffs’ motion has been filed.

Plaintiffs’ argument in support of its motion to stay discovery is predicated upon the theory that their motion for summary judgment that Fannie Mae’s deed of trust was not extinguished by the homeowners’ association (“HOA”) foreclosure sale will likely be granted. Plaintiffs cite 12 U.S.C. § 4617(j)(3) which Plaintiffs claim preempts the State of Nevada’s HOA foreclosure statute that otherwise would allow an HOA sale to extinguish existing liens or deeds of trust, as apparently occurred herein with respect to the Ditech/Fannie Mae deed of trust. This argument was recognized in the decision of the Ninth Circuit Court of Appeals in *Berezovsky v. Moniz*, 869 F.3d 923 (9th Cir. 2017) and other cases cited by Plaintiffs at p. 2 of ECF No. 61. Plaintiffs also cite other decisions of the District of Nevada where stays of discovery have been entered under similar circumstances. (*Id.*) No discovery

1 is either necessary to resolve Plaintiffs' motion for summary judgment, nor has any discovery been
2 requested. The court finds that a stay of discovery is warranted based on the apparent merits of
3 Plaintiffs' motion for summary judgment.

4 **IT IS HEREBY ORDERED** that Plaintiffs' Motion to Stay Discovery (ECF No. 61) is
5 **GRANTED**.

6 **IT IS FURTHER ORDERED** that the parties shall file a proposed discovery plan and
7 scheduling order within 14 days of the court's ruling on Plaintiffs' pending motion for summary
8 judgment in the event any of the parties' claims survive summary judgment. In the meantime, the
9 deadlines set forth in the this court's scheduling order (ECF No. 58) are **VACATED**.

10 DATED: December 13, 2018.

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12 WILLIAM G. COBB
13 UNITED STATES MAGISTRATE JUDGE
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